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Docket No.: M4065.0165/P165  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Garry A. Mercaldi, et al.

Application No.: 09/285,773

Group Art Unit: 1765

Filed: April 5, 1999

Examiner: L. Umez-Eronini

For: METHOD FOR ETCHING DOPED  
POLYSILICON WITH HIGH  
SELECTIVITY TO UNDOPED  
POLYSILICON

RESPONSE TO NOTICE OF NON-RESPONSIVE AMENDMENT AND TO  
ELECTION/RESTRICTION REQUIREMENT

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

In response to the Notice of Non-Responsive Amendment mailed October 17, 2002 (Paper No. 28) and of the election/restriction requirement set forth in the Office Action mailed July 16, 2002 (Paper No. 26), Applicants provisionally elect species D<sub>1</sub> (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41 and 83) (isopropanol required) of Group D for continued examination.

The election is made with traverse.

First, the present application was given a restriction requirement more than three years ago, in an Office Action mailed May 1, 2000, which required election between claims 1-41, drawn to a product, and claim 42-81, drawn to a method. In a response to the first restriction requirement dated May 25, 2000, Applicants provisionally elected claims 1-41, for continued examination without traverse. All elected claims 1-41 were then examined

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on the merits and a substantive Office Action was mailed on June 7, 2000, rejecting all claims 1-41. Applicants responded to the June 7, 2000 Office Action and amended claim 1, canceled claims 8, 12 and 19-21, and added new claims 82-86 in an Amendment dated August 10, 2000. The Examiner then issued a second substantive Office Action pertaining to claims 1-7, 9-11, 13-18, 22-41 and 82-86 on October 31, 2000 and Applicants responded on January 23, 2001 and amended claims 1, 4, 25 and 82-86.

A Notice of Appeal was mailed on February 1, 2001 and Applicants filed a Continued Prosecution Application on February 23, 2001. A fourth substantive Office Action was mailed on March 7, 2001 rejecting claims 1-7, 9-11, 13-18, 22-41 and 82-86 and Applicants responded on May 23, 2001 and canceled claims 30-32, 36-38 and 84-86, amended claims 1, 22 and 82-83 and added new claims 87-93. A fifth substantive Office Action was then mailed on July 24, 2001 finally rejecting claims 1-7, 9-11, 13-18, 22-29, 33-35, 39-41, 82 and 83 and allowing claims 87-93. In response to the July 24, 2001 Office Action, Applicants canceled claims 10, 11, 16-18 and 87, and amended claims 1 and 9 in an Amendment dated October 18, 2001. Another Advisory Action was mailed on October 30, 2001 and Applicants responded by filing another Continued Prosecution Application (CPA) on November 26, 2001. A seventh substantive Office Action was issued on December 13, 2001 rejecting all pending claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88. Applicants responded in an Amendment dated March 11, 2002 and amended claims 1, 9 and 22 and canceled claim 88.

Now, after more than three years of substantive prosecution of elected claims 1-41, Applicants have been required unexpectedly and unfairly to further elect between Group A (claims 1, 9, 22 and 89-93), Group B (claims 1, 22, 82, 83 and 89-93), Group C (claims 1, 2, 6, 7, 9, 13-15, 22-27, 33-35, 83 and 89-93) and Group D (claims 1-6, 9, 13-15, 22-27, 33-35, 39-41, 83 and 89-93), claims that have been already substantially examined together repeatedly.

Second, MPEP § 803 provides that “[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on its

merits, even though it includes claims to independent or distinct inventions.” As acknowledged by virtue of Applicants receiving numerous Office Actions mailed over a period of now more than three years, claims 1-7, 9, 13-15, 23-29, 33-39, 82, 83 and 88 all relate to a non-aqueous etching mixtures, thereby defining closely related subject matter. Further, the previously elected claims have already been substantively examined at least five times by the same Examiner. Accordingly, this demonstrates that the entire group of claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 can be examined together without serious burden. Consequently, the restriction/election requirement should be withdrawn and all claims 1-7, 9, 13-15, 22-29, 33-35, 39-41, 82, 83 and 89-93 should be examined.

Dated: June 4, 2003

Respectfully submitted,

By 

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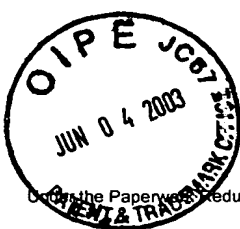
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PTO/SB/17 (05-03)  
Approved for use through 04/30/2003. OMB 0651-0032  
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FEE TRANSMITTAL for FY 2003 <small>Effective 01/01/2003, Patent fees are subject to annual revision.</small>		Compleat if Known		
		Application Number	09/285,773-Conf. #4121	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	April 5, 1999	
		First Named Inventor	Garry A. Mercaldi	
		Examiner Name	L. Umez-Eronini	
TOTAL AMOUNT OF PAYMENT (\$)		1,300.00	Attorney Docket No.	M4065.0165/P165
METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)		
<input type="checkbox"/> Check <input checked="" type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None		3. ADDITIONAL FEES		
<input type="checkbox"/> Deposit Account		Large Entity Small Entity		
Deposit Account Number 04-1073		Fee Code Fee (\$)		
Deposit Account Name Dickstein Shapiro Morin & Oshinsky LLP		Fee Code Fee (\$)		
The Director is hereby authorized to: (check all that apply)		Fee Description Fee Paid		
<input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments		1051 130 2051 65 Surcharge - late filing fee or oath		
<input type="checkbox"/> Charge any additional fee(s) during the pendency of this application		1052 50 2052 25 Surcharge - late provisional filing fee or cover sheet.		
<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.		1053 130 1053 130 Non-English specification		
FEE CALCULATION		1812 2,520 1812 2,520 For filing a request for ex parte reexamination		
1. BASIC FILING FEE		1804 920* 1804 920* Requesting publication of SIR prior to Examiner action		
Large Entity Small Entity		1805 1,840* 1805 1,840* Requesting publication of SIR after Examiner action		
Fee Code Fee (\$)	Fee Code Fee (\$)	1251 110 2251 55 Extension for reply within first month		
1001 750 2001 375 Utility filing fee		1252 410 2252 205 Extension for reply within second month		
1002 330 2002 165 Design filing fee		1253 930 2253 465 Extension for reply within third month		
1003 520 2003 260 Plant filing fee		1254 1,450 2254 725 Extension for reply within fourth month		
1004 750 2004 375 Reissue filing fee		1255 1,970 2255 985 Extension for reply within fifth month		
1005 160 2005 80 Provisional filing fee		1401 320 2401 160 Notice of Appeal		
SUBTOTAL (1) (\$)		1402 320 2402 160 Filing a brief in support of an appeal		
0.00		1403 280 2403 140 Request for oral hearing		
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE		1451 1,510 1451 1,510 Petition to institute a public use proceeding		
Total Claims ** =		1452 110 2452 55 Petition to revive - unavoidable		
Independent Claims ** =		1453 1,300 2453 650 Petition to revive - unintentional		
Multiple Dependent		1501 1,300 2501 650 Utility issue fee (or reissue)		
Large Entity Small Entity		1502 470 2502 235 Design issue fee		
Fee Code Fee (\$)	Fee Code Fee (\$)	1503 630 2503 315 Plant issue fee		
1202 18 2202 9 Claims in excess of 20		1460 130 1460 130 Petitions to the Commissioner		
1201 84 2201 42 Independent claims in excess of 3		1807 50 1807 50 Processing fee under 37 CFR 1.17(q)		
1203 280 2203 140 Multiple dependent claim, if not paid		1806 180 1806 180 Submission of Information Disclosure Stmt		
1204 84 2204 42 ** Reissue independent claims over original patent		8021 40 8021 40 Recording each patent assignment per property (times number of properties)		
1205 18 2205 9 ** Reissue claims in excess of 20 and over original patent		1809 750 2809 375 Filing a submission after final rejection (37 CFR 1.129(a))		
SUBTOTAL (2) (\$)		1810 750 2810 375 For each additional invention to be examined (37CFR 1.129(b))		
0.00		1801 750 2801 375 Request for Continued Examination (RCE)		
**or number previously paid, if greater; For Reissues, see above		1802 900 1802 900 Request for expedited examination of a design application		
SUBMITTED BY		Other fee (specify)		
Name (Print/Type)	Thomas J. D'Amico	*Reduced by Basic Filing Fee Paid		
Registration No. (Attorney/Agent)	28,371	SUBTOTAL (3) (\$)		
Signature		1,300.00		
Telephone	(202) 828-2232	Complete (if applicable)		
Date	June 3, 2003			

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